

Sec.

- (a) Establishment.
- (b) Duties.
- (c) Consultation required.
- (d) Non-derogation.
- (e) Report.
- (f) Funding.

1129. Cyberpiracy protections for individuals.

EFFECTIVE DATE

This chapter, act July 5, 1946, ch. 540, 60 Stat. 427, became effective one year from July 5, 1946, and repealed chapter 3 of this title as of that date. See notes under section 1051 of this title.

PRIOR LAWS

The Trade-Mark Act of 1905 superseded the Trade-Mark Act of Mar. 3, 1881, ch. 138, 21 Stat. 502, entitled "An Act to authorize the registration of trade-marks and protect the same," and also act Aug. 5, 1882, ch. 393, 22 Stat. 298, entitled "An Act relating to the registration of trade marks". Former section 109 of this title repealed all inconsistent acts and parts of acts, except so far as they might apply to certificates of registration issued under the Trade-Mark Act of Mar. 3, 1881, ch. 138, and act Aug. 5, 1882, ch. 393.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1129 of this title; title 18 section 2320; title 19 section 1337; title 22 section 2141c; title 36 section 220506; title 48 section 1643.

SUBCHAPTER I—THE PRINCIPAL REGISTER

§ 1051. Application for registration; verification**(a) Application for use of trademark**

(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Director, and such number of specimens or facsimiles of the mark as used as may be required by the Director.

(2) The application shall include specification of the applicant's domicile and citizenship, the date of the applicant's first use of the mark, the date of the applicant's first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

(3) The statement shall be verified by the applicant and specify that—

(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

(B) to the best of the verifier's knowledge and belief, the facts recited in the application are accurate;

(C) the mark is in use in commerce; and

(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

(i) state exceptions to the claim of exclusive use; and

(ii) shall specify, to the extent of the verifier's knowledge—

(I) any concurrent use by others;

(II) the goods on or in connection with which and the areas in which each concurrent use exists;

(III) the periods of each use; and

(IV) the goods and area for which the applicant desires registration.

(4) The applicant shall comply with such rules or regulations as may be prescribed by the Director. The Director shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.

(b) Application for bona fide intention to use trademark

(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Director.

(2) The application shall include specification of the applicant's domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

(3) The statement shall be verified by the applicant and specify—

(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

(B) the applicant's bona fide intention to use the mark in commerce;

(C) that, to the best of the verifier's knowledge and belief, the facts recited in the application are accurate; and

(D) that, to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 1126 of this title, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

(4) The applicant shall comply with such rules or regulations as may be prescribed by the Director. The Director shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.

(c) Amendment of application under subsection (b) to conform to requirements of subsection (a)

At any time during examination of an application filed under subsection (b) of this section, an applicant who has made use of the mark in commerce may claim the benefits of such use for purposes of this chapter, by amending his or her application to bring it into conformity with the requirements of subsection (a) of this section.